

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CUSTOM HARDWARE ENGINEERING)
& CONSULTING, INC.,)
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Plaintiff/Counterclaim-Defendant,)
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vs.) Case No. 4:10CV000653 ERW
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)
JONATHAN D. DOWELL, *et al.*,)
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)
Defendants/Counterclaim-Plaintiffs.)

MEMORANDUM AND ORDER

This matter comes before the Court upon review of Plaintiff Custom Hardware Engineering & Consulting, Inc.'s ("CHE") Response [ECF No. 306] to the Court's October 26, 2012 Order [ECF No. 295].

On October 12, 2012, Defendants filed a motion under Federal Rule of Civil Procedure 37(b), asking this Court to compel Plaintiff to provide complete and current responses to Defendants' Interrogatories and Requests for Production [ECF No. 280]. In their Motion, Defendants alleged that information obtained during the course of depositions caused them to believe that certain of Plaintiffs' discovery responses were incomplete, and that efforts to resolve the matter between the parties had been unsuccessful.

In an October 26, 2012 Memorandum and Order, this Court ordered CHE to produce any performance appraisal conducted for Jonathan Dowell in 2007, and, as well, to produce to the Court for *in camera* review copies of all employee handbooks in effect during the course of the employment of any Defendant, and copies of any customer lists TriPoint had obtained or used to the detriment of CHE [ECF No. 295]. CHE has produced copies of its employee handbooks and its customer list for the Court's review. As to the Court's instruction to produce any 2007

performance appraisal prepared for Defendant Dowell in 2007, CHE states that because Defendant Dowell's direct supervisor, Co-defendant Marcus Smith, failed to prepare a performance appraisal for Defendant Dowell in 2007, CHE does not have such a document to produce. CHE's Response to this Order convinces this Court that it has fully complied with Defendants' Requests, and the Court's Order.

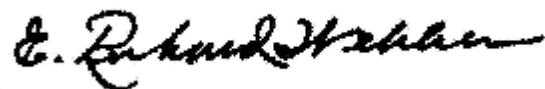
Accordingly,

IT IS HEREBY ORDERED that, upon finding Plaintiff CHE has fully satisfied its obligation to produce documents pursuant to this Court's October 26, 2012 Order [ECF No. 295], the Court hereby vacates its order directing Plaintiff CHE to produce any performance appraisal conducted for Jonathan Dowell in 2007, in response to Defendant Jonathan Dowell's Request for Production No. 15.

IT IS FURTHER ORDERED that CHE shall produce, on or before November 29, 2012 at 9:00 a.m., to the Law Offices of Kevin J. Dolley, 7750 Clayton Road, Suite 102, St. Louis, Missouri 63117, copies of the employee handbooks submitted to this Court on October 29, 2012, for *in camera* review pursuant to this Court's October 26, 2012 Order.

IT IS FURTHER ORDERED that Plaintiff will not be required to produce the customer list, marked as a CHE trade secret and confidential, produced by CHE for *in camera* review on October 29, 2012. The Court will destroy the document submitted for *in camera* review on December 6, 2012, unless CHE notifies the Court before that date of its intent to retrieve the document.

Dated this 21st day of November, 2012.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE